

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1114 of 2024

and

W.M.P(MD)No.1141 of 2024

C.B.Citrarasu

... Petitioner

Vs

The Assistant Director,
Department of Fisheries and Fishermen Welfare,
Petchiamman Padithurai,
Simmakkal,
Madurai.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with order in Se.Mu.No.1161/E/2023-3, dated 11.09.2023 passed by the respondent and quash the same, consequently directing the respondent to permit the petitioner to put seeds and harvest fish till 2023-2024 as per the agreement dated 01.12.2021.

For Petitioner : Mr.S.Rajasekaran

For Respondent : Mr.SRA.Ramachandran
Additional Government Pleader

ORDER

The petitioner has prayed for issuance of a Writ of Certiorarified Mandamus seeking to quash the impugned order in Se.Mu.No.1161/E/2023-3, dated 11.09.2023 passed by the respondent and consequently direct the respondent to permit the petitioner to put seeds and harvest fish till 2023-2024 as per the agreement, dated 01.12.2021.

2. Heard Mr.S.Rajasekaran, learned counsel appearing for the petitioner and Mr.SRA.Ramachandran, learned Additional Government Pleader appearing for the respondent.

3. By consent, this writ petition is disposed of at the admission itself.

4. According to the petitioner, he had entered into a lease agreement, dated 01.12.2021 for fishing in Solavanthan Vadakarai and Thenkarai Kanmai and the same was registered as document No.2911 and 2912 of 2021 for three years from 2021-2022 to 2023-2024. As per the lease agreement, the Fasli year starts from 1st day of July and ends with 30th day of June. For every Fasli year, as per the registered agreement, the last date for paying lease money to the respondent is 31st day of July. For first year concerned, he has paid a sum of Rs.65,00,000/- for both Kanmais including the registration charges. For second year, he has paid Rs.62,55,530/-. But

in the entire 17 months, he had harvested the fish only once. In the second year, due to heavy flood he suffered huge loss. At this juncture, the petitioner has to pay a sum of Rs.63,31,083/- for the third year on or before 31.7.2023. As he suffered huge loss, he could not pay the third year lease amount. But, this year, there is no water in both the Kanmais as on 31st July 2023. Therefore, the petitioner has sent a representation to the respondents on 06.07.2023 requesting 6 months relaxation for making the payment. If the respondent provides 6 months time, absolutely there is no loss for the respondent. Since the respondent did not relax the time for payment of license fee, the petitioner filed a writ petition in W.P(MD)No.17772 of 2023 praying to direct the respondent to provide six months relaxation to pay the license fee and lease money. This Court, by order dated 26.07.2023 dismissed the writ petition. In the meantime, the respondent has passed the impugned order. Therefore, the petitioner filed the writ appeal in W.A(MD)No.1702 of 2023. As the respondent promised that they will relax the time, on 18.10.2023 the petitioner withdrew the writ appeal. In spite of repeated approach, the respondent neither withdrew the impugned order nor allowed the petitioner to pay the license fee for the third year. Therefore, the petitioner has filed the present writ petition to quash the impugned order passed by the respondent.

5. The learned Additional Government Pleader appearing for the respondent would submit that the petitioner's case was not considered and hence, he filed the

writ petition in W.P.(MD)No.17772 of 2023 before this Court and this Court dismissed the writ petition stating that when there is specific conditions with regard to the payment of the lease amount every year and having agreed to the those conditions, the petitioner is not entitled for the relief of extension of time. Thereafter, the petitioner has filed the writ appeal and the same has been withdrawn by the petitioner and no undertaking was given by the authorities before the writ appellate Court and only the petitioner has sought for permission to withdraw the writ appeal. After 5 months from the date of receipt of the impugned order, the petitioner has chosen to file the present writ petition challenging the order passed the Assistant Director of Fisheries and Fishermen Welfare. Till date he is harvesting the fish without paying any amount.

6. It is seen from the records that the issue of extension of 6 months time for paying the lease amount was not considered by this Court and this Court dismissed the writ petition and the petitioner has also filed the writ appeal and the writ appeal has also been withdrawn by the petitioner. In view of the above said circumstances, the petitioner has no legs to come before this Court by filing the writ petition as the period of 6 months already lapsed, till date he is not chosen to pay any amount to the respondent and hence, there is no merit in the matter.

7. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

Internet: Yes/No

am

22.01.2024

To

The Assistant Director,
Department of Fisheries and Fishermen Welfare,
Petchiamman Padithurai,
Simmakkal,
Madurai.

V.BHAVANI SUBBAROYAN, J.

am

W.P(MD)No.1114 of 2024

22.01.2024